

**State of Kansas
Department of Health and Environment**

Notice of Hearing on Proposed Administrative Regulations

The Kansas Department of Health and Environment, Kansas Health and Environmental Laboratory, Quality, Preparedness and Certifications Section, Breath Alcohol Laboratory Program, will conduct a public hearing at 2 p.m. Thursday, January 24, 2013, in the Azure Conference Room, 4th Floor, Curtis State Office Building, 1000 S.W. Jackson, Topeka, to consider the adoption of amended regulation K.A.R. 28-32-13 pertaining to laboratory records.

A summary of the proposed regulation and the estimated economic impact follows:

Summary of Regulation:

28-32-13. The proposed amendment to this regulation removes the requirement that local law enforcement agencies and organizations that conduct breath alcohol testing submit quarterly reports regarding the testing to KDHE. The information that is currently submitted in these reports is retrieved by KDHE staff during required annual site inspections and inspections of Intoxilizer 8000 units at the law enforcement agencies and organizations. Since the data is already retrieved by KDHE staff, the requirement to generate and submit quarterly reports is not needed.

Economic Impact:

Cost to individuals: There is no known increase in costs to private citizens or regulated providers.

Cost to the agency: It is anticipated that the costs incurred by KDHE to implement this regulation will be negligible. The annual site inspections of local law enforcement agencies and organizations and their testing units are already being conducted by KDHE personnel within the current budget. In addition, the proposed amendment will reduce KDHE staff requirements to review and maintain the quarterly reports from local agencies and organizations.

Costs to other governmental agencies or units: The proposed amendment will reduce the costs to local agencies and organizations associated with producing quarterly reports.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed amended regulation. At any time during the public comment period interested parties may submit written comments to Christine M. Houston, 6700 S.W. Topeka Blvd., Bldg. 740, Topeka 66620, by e-mail to chouston@kdheks.gov or by fax to 785-296-8068. During the hearing, all interested parties will be given a reasonable opportunity to present their views orally on the proposed amended regulation as well as an opportunity to submit their written comments. In order to give each individual an opportunity to present their views, it may be necessary for the hearing officer to request that each presenter limit any oral presentation to an appropriate time frame.

Complete copies of the proposed regulation and the corresponding economic impact statement may be obtained on the Kansas Department of Health and Environment, Breath Alcohol Laboratory Program website at www.kdheks.gov/lipo/alcohol.html or by contacting Christine M. Houston at the address above, 785-230-1727 or fax 785-296-8068. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Christine M. Houston.

Robert Moser, M.D.

Secretary of Health and Environment

28-32-13. Records ~~and reports~~. (a) ~~Records~~.

(1) Each agency custodian or the agency custodian's designee shall maintain the following records on file at the certified agency's office for at least three years:

(A) Records of each current certified operator;

(B) records showing that a quality control check was completed at least once each week for each EBAT device assigned to the agency; and

(C) records documenting any maintenance or repair made to each EBAT device.

(2) The records specified in this subsection shall be subject to inspection by the secretary at least annually.

(b) ~~Reports~~. Each agency custodian or the agency custodian's designee shall maintain a record of the number of individuals tested by each certified operator under the certified agency's supervision ~~and shall submit a quarterly report to the department on forms provided by the department~~. (Authorized by and implementing K.S.A. ~~2006~~ 2011 Supp. 65-1,107; effective March 14, 2008; amended P- _____.)

October 4, 2012

Kansas Department of Health and Environment

ECONOMIC IMPACT STATEMENT

Pursuant to the requirements of KSA 2011 Supp. 77-416, the Kansas Department of Health and Environment (KDHE) submits the following economic impact statement.

1. Regulation(s):

28-32-13

2. Brief description of each regulation(s) and what is intended to be accomplished by adoption.

The current regulation requires that each law enforcement and police organization conducting breath alcohol testing in the state submit quarterly reports regarding the testing performed by their organization. These reports summarize the testing results conducted by that organization over the previous quarter using the Intoxilizer 8000 breath testing units. These reports are required by this regulation to be submitted to the Kansas Department of Health and Environment (KDHE).

The amendment to this regulation removes the requirement for the generation and submission of these quarterly reports to the KDHE. The information that is currently submitted on these reports is retrieved by KDHE staff during required annual inspections of the Intoxilizer units at the law enforcement and police organization locations. Since the data is already being retrieved by KDHE staff, the requirement to generate and submit quarterly reports is not needed.

3. Is this regulation(s) mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes _____

No ☒X

If yes, please explain.

4. Do the proposed regulations exceed the requirements of applicable federal law?

Yes _____

No ☒X

If yes, please explain.

5. Description of Costs:

a. Cost to the agency:

It is anticipated that the costs incurred by KDHE to implement these regulations will be negligible. The annual site inspections of the law enforcement and police organization and their testing units are already being conducted by KDHE personnel within the current budget. In addition this amendment will reduce KDHE staff requirements to review and maintain these quarterly reports from the local agencies.

b. Cost to persons who will bear the costs and those who will be affected,(i.e. private citizens and consumers of the products or services) and are subject to the proposed rules and regulations or the enforcement:

There is no known increase in costs.

c. Costs to other governmental agencies or units:

This amendment will reduce the costs associated with producing these quarterly reports at the local agency level.

6. Description of any less costly or less intrusive methods that were considered by the agency for the purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations.

Not applicable

7. Verification of economic impact statement with League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards.

The above mentioned regulations were determined as appropriate for consultation as to the economic impact with the League of Kansas Municipalities, Kansas Association of Counties and the Kansas Association of School Boards, pursuant to KSA 2011 Supp. 77-416.

Yes _____

No X

If yes:

Date Contacted and by what means (i.e., letter, email, etc.):

Response and comments received by:

League of Kansas Municipalities:

Kansas Association of Counties:

Kansas Association of School Boards: